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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,289	01/13/2004	Eytan Biderman	02/23964	1323

7590 12/20/2005

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EXAMINER

ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/755,289	Applicant(s) BIDERMAN ET AL.	
	Examiner Reginald L. Alexander	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 27-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of Group I, claims 1-26 in the reply filed on November 14, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-11 and 14-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh in view of Clubb.

There is disclosed in Hsieh a dispensing device comprising: two water reservoirs 11, 12, each having a controllable water outlet 113, 114, 123, 124; a heater 122 within a reservoir for heating or boiling water therein; a first container 14 for holding an ingredient, the container having a controllable dispenser 16; a second container 13 for holding an additional ingredient, the container having a controllable dispenser 15; a controller and data processor 30 for determining an amount of liquid and ingredient from the containers and reservoirs to prepare a desired finished food product.

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Clubb discloses that it is old and well known in the art to use a temperature sensor in association with a water reservoir to monitor the temperature of water dispensed therefrom.

It would have been obvious to one skilled in the art to provide the water reservoirs of Hsieh with a temperature sensor as taught in Clubb, in order to control the temperature of the finished food product.

In regards to claims 6 and 8-11, there is no structure recited in the claims to perform the claimed functional statements. The device of Hsieh could be programmed to perform the same functions.

In regards to claims 16-18, 20 and 21, the type of food ingredient used provides no structural limitations to the claims.

In regards to claim 19, Clubb discloses a user interface for displaying information related to the fluid food and for accepting input related thereto.

It would have been obvious to one skilled in the art to provide the device of Hsieh with the user interface disclosed in Clubb, in order to provide user specific instruction pertinent to the desired finished food product.

In regards to claims 24 and 25, the ingredient containers could be disposed of if want be and they could be replenished with a refill. Applicant has not provided any positive recitations of a particular refill type or any structure which would make the containers disposable.

Claims 4, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh in view of Clubb as applied to claims above, and further in view of Anson.

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Anson discloses, within a brewing device, the use of two water reservoirs having heating means in each. The heaters providing a varied temperature in each reservoir.

It would have been obvious to one skilled in the art to provide both reservoirs of Hsieh, as modified by Clubb, with heaters as taught by Anson, in order to make fluid food drinks having different heated temperatures as opposed to making one hot and one cold.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to McGarrah and Bunn are cited for their disclosure of the state of the art.

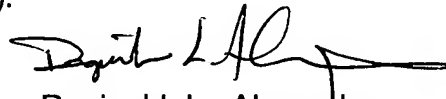
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla
December 15, 2005



Reginald L. Alexander
Primary Examiner
Art Unit 1761